

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:10-CT-3024-BO

JERRY QUINCY JONES,
Plaintiff,

v.

NURSE WILLIAMSON, et al.,
Defendants.

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ORDER

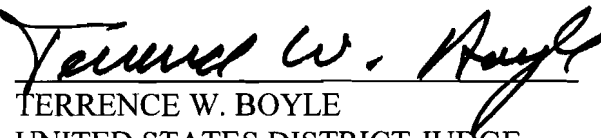
Jerry Quincy Jones filed this action as a pro se incarcerated inmate under 42 U.S.C. § 1983. Plaintiff has since been released from incarceration and is now represented by counsel, Anthony James Cuticchia. (D.E. # 41). Two defendants remain in the action, Dr. Burke who has yet to be served, and Sergeant Broadhurst. This order concludes the case.

Sergeant Broadhurst seeks summary judgment for failure to exhaust to which plaintiff's counsel concurs. (D.E. # 36, 37, 40 and 42) Thus, summary judgment is ALLOWED and the matter is dismissed without prejudice as to Sergeant Broadhurst. (D.E. # 36).

Next, the court turns to Dr. Burke as a named defendant. Dr. Burke has not been properly served (D.E. # 30), the court made every effort to aid in perfecting service (D.E. # 33), and the Assistant County Attorney of Cumberland County and Attorney General represent that no such individual appears to be presently or previously employed by the Department of Correction or Cumberland County (D.E. # 34). Furthermore, plaintiff was ordered to show good cause for the failure to serve (D.E. # 35), to which he did not respond. Thus, Dr. Burke is also dismissed without prejudice. Fed. R. Civ. P. 4(m).

Accordingly, the Motion for Summary Judgment is ALLOWED without prejudice as to Sergeant Broadhurst. (D.E. # 36). Dr. Burke is dismissed without prejudice for failure to serve. The Clerk is DIRECTED to close the case.

SO ORDERED, this 9 day of January 2012.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE